

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NIRVA SANCHEZ and GERARDO SANCHEZ,

Plaintiffs,

- against -

**REPORT AND RECOMMENDATION  
10 CV 3641 (CBA)(LB)**

AZZAM ABDERRAHMAN, AZZM JOHN/  
JANE DOE 1-20, TARA ANGLIN MAROLLA,  
SMITH, BUSS AND JACOBS LLP, JOHN J.  
MALLEY, YONKERS LAW FIRM JOHN/  
JANE DOES 1-20, RACHEL HAQUE, JOHN  
G. ANGELET, ROY R. SPELLS, MARIA  
FLORES, KIM VALENTIN, RODNEY  
MCLEAN, FOUNDRY CONDOMINIUM  
ASSOCIATION, BOARD OF MANAGERS,  
*as Agent for the Foundry Condominium  
Association Board John/Jane Does 1-20,*  
WESTCHESTER COURT SERVICE-FOX  
ADVERTISING, INC., KENNETH R.  
JACOBS, ALBERT WEISS, HERMAN  
FRUEND, and PERCY GOLMAN,

Defendants.

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**BLOOM, United States Magistrate Judge:**

Plaintiffs commenced this *pro se* action on August 9, 2010. (Docket Entry 1.) Plaintiffs filed an amended complaint, which named additional defendants, on October 12, 2010. (Docket Entry 3.) The Court's records do not reflect that plaintiffs have filed proof that defendants have been served with the summons and amended complaint. Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 120 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

By Order dated August 11, 2010, I directed plaintiffs to serve defendants with the summons and complaint by December 7, 2010. (Docket Entry 2.) After plaintiffs filed their amended complaint, I again directed plaintiffs to serve defendants by December 7, 2010. (Docket Entry 4.) I warned plaintiffs that if they failed to serve defendants by December 7, 2010 or failed to show good cause why defendants have not been served, I would recommend that the Court should dismiss this action without prejudice. Plaintiffs have failed to file proof of service or show good cause why service has not been made on defendants. Accordingly, it is respectfully recommended pursuant to 28 U.S.C. § 636(b) that plaintiffs' amended complaint should be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

#### **FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. Such objections (and any responses to objections) shall be filed with the Clerk of the Court. Any request for an extension of time to file objections must be made within the fourteen-day period. Failure to file a timely objection to this Report generally waives any further judicial review. Marcella v. Capital Dist. Physician's Health Plan, Inc., 293 F.3d 42 (2d Cir. 2002); Small v. Sec'y of Health and Human Servs., 892 F.2d 15 (2d Cir. 1989); see Thomas v. Arn, 474 U.S. 140 (1985).

SO ORDERED.

/Signed by Judge Lois Bloom/

LOIS BLOOM  
United States Magistrate Judge

Dated: December 14, 2010  
Brooklyn, New York